

SSB 5445 - S AMD 195

By Senators Kline, Esser

ADOPTED 03/10/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The people of Washington state adopted the
4 cleanup priority act as Initiative 297 in November 2004. The
5 legislature finds that the intent of Initiative 297 is clearly stated
6 in the intent and policy sections of the cleanup priority act as passed
7 by the voters. The cleanup priority act makes the cleanup of
8 contamination the top priority at sites with hazardous or mixed waste
9 contamination. The cleanup priority act should be interpreted by the
10 courts consistent with the clear intent of the voters, and the findings
11 and clarifications in this act.

12 The legislature further finds that nothing in the cleanup priority
13 act is intended to, or has the effect of, preventing the movement of
14 waste from one facility or unit within a site to another as part of an
15 approved cleanup order, agreement, or plan, or pursuant to permits.
16 Because the term facility is used in different ways in different
17 statutes, rules, and regulations, the legislature finds that it is
18 desirable to clarify that the cleanup priority act does not prevent the
19 movement or transfer of waste within a site to accomplish cleanup of
20 the site. The legislature finds that the cleanup priority act does not
21 increase the universe of substances that are subject to regulation by
22 the state as hazardous or mixed wastes. The legislature finds that the
23 cleanup priority act does not regulate radioactive materials, medical
24 isotopes, other radioactive substances, or facilities exclusively
25 regulated by the United States pursuant to the federal atomic energy
26 act 42 U.S.C. Sec. 2011 et seq.

27 The legislature further finds that this chapter is not intended,
28 nor may it be interpreted, to adversely affect the transportation,
29 manufacturing, storage, or use of any hazardous substance or

1 radioactive materials necessary for medical research, medical
2 treatment, or manufacturing or industrial processes.

3 The legislature further finds that the cleanup priority act does
4 not regulate the materials or facilities used in the processing of
5 radioactive substances, including those with nonradioactive components,
6 to produce radioactive isotopes for beneficial use, such as
7 calibrations, research, and medical use. In accordance with this
8 finding, the cleanup priority act is not intended to, and shall not be
9 interpreted to, regulate those radioactive or otherwise hazardous
10 materials that may be imported to Washington state, or generated within
11 the state, to be processed for the production of beneficial products,
12 such as medical isotopes.

13 It is in the interest of the state to clarify as quickly as
14 possible that the cleanup priority act does not impact any business
15 operation, or federal or private facility, that was not intended to be
16 impacted by the cleanup priority act. Consistent with the intent of
17 the voters, the legislature finds that the universe of regulated
18 hazardous or dangerous wastes was not expanded by the passage of the
19 cleanup priority act. Because court action has prevented the normal
20 role of the department of ecology from issuing defining or interpretive
21 rules, the legislature finds that adoption of the amendments to the
22 cleanup priority act will ensure that the intent of the cleanup
23 priority act is understood and clarified for the courts as well as for
24 businesses or cleanup operations without delay.

25 **Sec. 2.** RCW 70.105E.030 and 2005 c 1 s 3 (Initiative Measure No.
26 297) are each amended to read as follows:

27 The definitions in this section apply throughout this chapter
28 unless the context clearly requires otherwise.

29 (1) "Dangerous waste" has the same meaning as the term is defined
30 in RCW 70.105.010.

31 (2) "Department" means the department of ecology.

32 (3) "Dispose" or "disposal" have the same meanings as the terms are
33 defined in RCW 70.105.010.

34 (4) "Facility" has the same meaning as the term is defined in RCW
35 70.105.010.

36 (5) "Hanford" means the geographic area comprising the Hanford

1 nuclear reservation, owned and operated by the United States department
2 of energy, or any successor federal agency.

3 (6) "Hazardous substance" has the same meaning as the term is
4 defined in RCW 70.105D.020.

5 (7) "Hazardous waste" means and includes all dangerous and
6 extremely hazardous waste, as those terms are defined in RCW
7 70.105.010.

8 (8) "Local government" means a city, town, or county.

9 (9)(a) "Mixed waste" or "mixed radioactive and hazardous waste"
10 means:

11 (i) Any ((~~hazardous substance or~~)) dangerous or extremely hazardous
12 waste that contains both a nonradioactive hazardous component and a
13 radioactive component((~~, including~~)); or

14 (ii) Any ((~~such~~)) hazardous substances, as defined by RCW
15 70.105D.020 that contain both a nonradioactive and radioactive
16 hazardous component, that (A) have been released to the environment, or
17 (B) are discarded solid wastes found by the department to pose a threat
18 of future release, in a manner that may expose persons or the
19 environment to ((~~either the nonradioactive or radioactive hazardous~~
20 substances)) the release.

21 (b) Materials, useful products, or substances, including medical
22 isotopes and materials used to produce medical or industrial isotopes,
23 that are not otherwise regulated as hazardous or mixed waste under
24 chapter 70.105 RCW or the federal hazardous waste law (RCRA 42 U.S.C.
25 Sec. 6901, et seq.) are not hazardous, dangerous, or mixed waste under
26 this chapter. Mixed wastes or mixed waste facility does not include
27 radioactive materials or facilities regulated exclusively by the
28 federal government under the federal atomic energy act, 42 U.S.C. Sec.
29 2011 et seq.

30 (10) "Mixed waste surcharge" means an additional charge for the
31 purposes of local government and public participation in decisions
32 relating to mixed waste facilities((~~+~~)) to be added to the service
33 charge assessed under RCW 70.105.280 against those facilities that
34 store, treat, incinerate, or dispose of mixed wastes((~~+~~)), or against
35 facilities at which mixed wastes have been released((~~+~~)) or which are
36 undergoing closure pursuant to chapter 70.105 RCW or remedial action
37 pursuant to chapter 70.105D RCW.

1 (11) "Person" has the same meaning as the term is defined in RCW
2 70.105D.020.

3 (12) "Release" has the same meaning as the term is defined in RCW
4 70.105D.020.

5 (13) "Remedy or remedial action" have the same meanings as the
6 terms are defined in RCW 70.105D.020.

7 (14) "Site" means the contiguous geographic area under the same
8 ownership, lease, or operation where a facility is located, or where
9 there has been a release of hazardous substances. In the event of a
10 release of hazardous substances, "site" includes any area, or body of
11 surface or ground water, where a hazardous substance has been
12 deposited, stored, disposed of, placed, migrated to, or otherwise come
13 to be located.

14 (15) Unless otherwise defined, or the context indicates otherwise,
15 terms not defined in this section have the same meaning as defined in
16 chapter 70.105 RCW, when used in this chapter.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.105E
18 RCW to read as follows:

19 Nothing in this chapter prohibits mixed wastes generated on-site as
20 part of a remedial or corrective action from being transferred to,
21 stored, treated, recycled, or disposed of at a facility or unit within
22 the site subject to applicable permits, plans, agreements, consent
23 orders, or conditions of an approved remedy or corrective action under
24 the federal superfund law, 42 U.S.C. Sec. 9601 et seq., chapter 70.105D
25 RCW, chapter 70.105 RCW, or the federal resource conservation and
26 recovery act, 42 U.S.C. Sec. 6921 et seq.

27 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and takes effect
30 immediately."

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1 On page 1, line 5 of the title, after "2004;" strike the remainder
2 of the title and insert "amending RCW 70.105E.030; adding a new section
3 to chapter 70.105E RCW; creating a new section; and declaring an
4 emergency."

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